

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

KING-DEVICK TEST INC.,

Plaintiff,

v.

NYU LANGONE HOSPITALS, NEW YORK  
UNIVERSITY, STEVEN L. GALETTA, and  
LAURA J. BALCER,

Defendants.

Case No. 1:17-cv-09307 (JPO)

**DECLARATION OF KRISTEN MCCALLION**

I, Kristen McCallion, under penalty of perjury, hereby declare as follows:

1. I am a principal at the firm Fish & Richardson P.C., counsel of record for Defendants NYU Langone Hospitals, New York University, Steven L. Galetta, and Laura J. Balcer (together, “Defendants”) in the above captioned proceeding. I submit this declaration in support of *Defendants’ Motion for the Issuance of a Request to the Register of Copyrights Pursuant to 17 U.S.C. § 411(b)(2)*. I have personal knowledge of the facts and statements contained in this declaration and declare that the following is true and correct.

2. Attached hereto as **Exhibit A** is a true and correct copy of excerpts from the Transcript of the Deposition of Alan King, taken on October 19, 2018.

3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts from the Transcript of the Deposition of Steven Devick, Plaintiff’s sole 30(b)(6) witness, taken on October 30, 2018 and October 31, 2018.

4. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from the Transcript of the Deposition of Darrell G. Schlange, taken on November 28, 2018.

5. Attached hereto as **Exhibit D** is a true and correct copy of a document entitled “The Proposed King-Devick Saccade Test and its Relation to the Pierce Saccade Test and Reading Levels,” dated March 1976, which was produced by Plaintiff during fact discovery in this action, bearing Bates Nos. KDT0298304–KDT0298387.

6. Attached hereto as **Exhibit E** is a true and correct copy of an excerpt from a book entitled “Optometric Perceptual Testing and Training Manual,” which was produced by Defendants during fact discovery in this action, bearing Bates Nos. NYU00469222–NYU00469228 and NYU00469236–NYU00469238.

7. Attached hereto as **Exhibit F** is a true and correct copy of an excerpt from Plaintiff’s Response to Defendants’ First Set of Requests for Admission (Nos. 1–39), served on January 3, 2019.

8. Attached hereto as **Exhibit G** is a true and correct copy of an email dated March 18, 2018, between Steven Devick and the Food and Drug Administration (FDA), which was produced by Plaintiff during fact discovery in this action, bearing Bates Nos. KDT0281773–KDT0281774.

9. Attached hereto as **Exhibit H** is a true and correct copy of a letter re: “King-Devick License Agreement,” dated March 2, 1983 and an attached “Contract” dated March 16, 1983, which was produced by Plaintiff during fact discovery in this action, bearing Bates Nos. KDT0154890–KDT0154894.

10. Attached hereto as **Exhibit I** is a true and correct copy of the Declaration of Allen H. Cohen, dated December 6, 2018, which was produced by Defendants during fact discovery in this action, bearing Bates Nos. NYU00479835–NYU00479836.

11. Attached hereto as **Exhibit J** is a true and correct copy of an article titled “NYSOA

K-D Test,” dated July 1983, which was produced by Plaintiff during fact discovery in this action, bearing Bates No. KDT0032336–KDT00323345.

12. Attached hereto as **Exhibit K** is a true and correct copy of a document from the Copyright Office of the United States certifying the certificate of registration for U.S. Copyright Registration No. TXu000134747, which was produced by Plaintiff during fact discovery in this action, bearing Bates Nos. KDT0031754–KDT0031756.

13. Attached hereto as **Exhibit L** is a true and correct copy of a document from the Copyright Office of the United States certifying the deposit copy for U.S. Copyright Registration No. TXu000134747, which was produced by Plaintiff during fact discovery in this action, bearing Bates Nos. KDT0031757–KDT0031802.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 25, 2019 in New York, NY.



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STEVEN L. GALETTA, and  
LAURA J. BALCER

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on January 25, 2019, a true and correct copy of the foregoing document has been served on counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

/s/ Kristen McCallion  
Kristen McCallion